

found that such land was not included in the contract, hence the sole basis for the asserted federal question disappears.

And this result is not changed by considering, to the extent that it is our duty to do so, the question of fact upon which the existence of the alleged federal question depends. *Northern Pac. Ry. Co. v. North Dakota*, 236 U. S. 585, 593; *Creswill v. Knights of Pythias*, 225 U. S. 246, 261; *Kansas City Southern Ry. Co. v. Albers Commission Co.*, 223 U. S. 573, 591. We so conclude because the result of discharging that duty leaves us convinced that the finding below was adequately sustained; indeed, that the record makes it clear that the alleged ground for the federal question was a mere afterthought. The case, therefore, must be and is

Dismissed for want of jurisdiction.

LAY ET AL. *v.* LAY ET AL.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

No. 633. Motion to dismiss or affirm submitted November 4, 1918.—
Decided November 18, 1918.

As between the parties to it, an assignment of a claim against the Government for property taken during the Civil War, or of the right to a fund appropriated by Congress to satisfy a judgment therefor, is not made void by Rev. Stats., § 3477.

118 Mississippi, 549, affirmed.

THE case is stated in the opinion.

Mr. Wm. H. Watkins, for defendants in error, submitted the motion.

24.

Opinion of the Court.

Mr. John C. Bryson, for plaintiffs in error, in opposition to the motion. *Mr. Wm. I. McKay* was also on the brief.

Memorandum for the court by THE CHIEF JUSTICE.

The right to a fund resulting from the payment of an appropriation by Congress to satisfy a judgment for the value of property taken during the Civil War is the issue here involved. The contestants are the heirs at law of the original claimant and persons holding under an assignment by her of all her right to the claim or fund. The court enforced the assignment.

Under the assumption that the claimant was prohibited by the law of the United States (§ 3477, Rev. Stats.) from making an assignment, the heirs at law prosecute error to correct the federal error thus assumed to have been committed. But the assumption indulged in as to the effect of the law of the United States is without merit. *McGowan v. Parish*, 237 U. S. 285, 294, and cases cited. This renders it unnecessary to consider whether, if the heirs at law were entitled to the fund, they would be liable to pay the full sum of the attorney's fee contracted for by the transferee and the duty to pay which the transferee and those in privity do not dispute.

Judgment affirmed.